

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

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|---------------------------|---|------------------------|----------------------|
| IN THE MATTER OF: |) | Docket No. | CAA-05- 2002 -0 00 0 |
| |) | | |
| Ohio Screw Products, Inc. |) | Proceeding to Assess a | |
| Elyria, Ohio, |) | Civil Penalty under | |
| |) | Section 113(d) of the | |
| Respondent. |) | Clean Air Act, | |
| |) | 42 U.S.C. § 7413(d) | |
| |) | | |

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.

3. The Respondent is Ohio Screw Products, Inc., a corporation doing business in Elyria, Ohio.

Statutory and Regulatory Background

4. Under Section 112 of the Act, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning at 40 C.F.R. §§ 63.460 through 63.469.

5. The NESHAP for Halogenated Solvent Cleaning applies to each individual batch vapor, in-line vapor, in-line cold, and batch cold solvent cleaning machine that uses any solvent containing methylene chloride, perchloroethylene, trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride,

or chloroform, or any combination of these halogenated hazardous air pollutant (HAP) solvents, in a total concentration greater than five percent by weight, as a cleaning and/or drying agent, at 40 C.F.R. § 63.460(a).

6. 40 C.F.R. § 63.460(d) provides that each solvent cleaning machine subject to 40 C.F.R. Part 63, Subpart T, that commenced construction or reconstruction on or before November 29, 1993 shall achieve compliance with the provisions of this subpart no later than December 2, 1997.

7. 40 C.F.R. § 63.468(a) provides that each owner or operator of an existing solvent cleaning machine subject to the provisions of this subpart shall submit an initial notification report to the Administrator no later than August 29, 1995.

8. 40 C.F.R. § 63.468(d) provides that each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of 40 C.F.R. § 63.463 shall submit to the Administrator an initial statement of compliance for each solvent cleaning machine. For existing sources, this report shall be submitted to the Administrator no later than 150 days after the compliance date specified in § 63.460(d).

9. 40 C.F.R. § 63.463(e)(2)(i) provides that if a freeboard refrigeration device is used to comply with these standards, the owner or operator shall ensure that the chilled air blanket temperature (in °F), measured at the center of the air blanket, is no greater than 30 percent of the solvent's boiling point.

10. 40 C.F.R. § 63.466(a) provides that each owner or

operator of a batch vapor or in-line solvent cleaning machine complying with the equipment standards in 40 C.F.R. § 63.463(b)(1)(i), (b)(2)(i), (c)(1)(i), or (c)(2)(i) shall conduct monitoring and record the results on a weekly basis for the control devices.

11. 40 C.F.R. § 63.468(f) provides that each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of 40 C.F.R. § 63.463 shall submit an annual report by February 1 of the year following the one for which the reporting is being made.

12. 40 C.F.R. § 63.468(h) provides that each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of 40 C.F.R. § 63.463 shall submit an exceedance report to the Administrator semiannually except when the Administrator determines on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the source, or an exceedance occurs. Once an exceedance has occurred the owner or operator shall follow a quarterly reporting format until a request to reduce reporting frequency under paragraph (i) of this section is approved.

13. Section 112(i)(3)(A) of the Act, 42 U.S.C. § 7412(i)(3)(A), prohibits any person from operating a source in violation of any emissions standard, limitation, or regulation promulgated under Section 112.

14. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$25,000 per day of violation up to a total of \$200,000 for, among other things, NESHAP violations

that occurred prior to January 31, 1997, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1). The Debt Collection Improvements Act of 1996 increased the statutory maximum penalty to \$27,500 per day of violation up to a total of \$220,000 for, among other things, NESHAP violations that occurred on or after January 31, 1997.

15. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

16. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

General Allegations

17. Ohio Screw Products is a "person" as defined at Section 302(e) of the Clean Air Act, 42 U.S.C. § 7602(e).

18. Ohio Screw Products owns and operates a facility that designs and manufactures steel, brass, copper, aluminum, stainless steel, and plastic bar stock parts on screw machines, located at 818 Lowell Street, Elyria, Ohio.

19. Ohio Screw Products owns and operates a batch vapor degreaser at its facility.

20. The degreaser uses trichloroethylene in a total concentration greater than five percent by weight, as a cleaning and/or drying agent.

21. The degreaser has a solvent/air interface area less than thirteen square feet.

22. The degreaser is subject to the provisions of 40 C.F.R. Part 63, Subpart T, including 40 C.F.R. §§ 63.460, 63.463, 63.466, and 63.468.

23. Construction or reconstruction of the degreaser began on or before November 29, 1993, and is an "existing" degreaser based on the definition at 40 C.F.R. § 63.461.

24. On August 15, 2001, Bharat Mathur, Director, Air and Radiation Division, Region 5, issued a Finding of Violation to Ohio Screw Products, alleging violations of the applicable NESHAP for Halogenated Solvent Cleaning, 40 C.F.R. § 63.460-469.

25. U.S. EPA and Ohio Screw Products held a conference on August 29, 2001, to discuss the Finding of Violation in accordance with Section 113 of the Act.

Specific Allegations

Count I - 40 C.F.R. § 63.468(a)

26. Complainant incorporates paragraphs 1 through 25 of this complaint, as if set forth in this paragraph.

27. According to 40 C.F.R. § 63.468(a), each owner or operator of an existing solvent cleaning machine subject to the provisions of this subpart shall submit an initial notification report to the Administrator no later than August 29, 1995.

28. Ohio Screw Products submitted the initial notification

report on May 20, 1998.

29. Ohio Screw Product's failure to submit an initial notification for the existing degreaser by August 29, 1995, constitutes a violation of the reporting deadline established under 40 C.F.R. § 63.468(a), and of Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

Count II - 40 C.F.R. § 63.468(d)

30. Complainant incorporates paragraphs 1 through 25 of this complaint, as if set forth in this paragraph.

31. According to 40 C.F.R. § 63.468(d), each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of 40 C.F.R. § 63.463 shall submit to the Administrator an initial statement of compliance for each solvent cleaning machine.

32. In accordance with 40 C.F.R. § 63.468(d), for existing sources, this report shall be submitted to the Administrator no later than 150 days after the compliance date specified in § 63.460(d).

33. Ohio Screw Products submitted an initial statement of compliance on June 8, 1998.

34. Ohio Screw Products's failure to submit an initial statement of compliance within 150 days after the compliance date specified in § 63.460(d), constitutes a violation of the reporting deadline established under 40 C.F.R. § 63.468(d), and of Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

Count III - 40 C.F.R. § 63.468(f)

35. Complainant incorporates paragraphs 1 through 25 of

this complaint, as if set forth in this paragraph.

36. According to 40 C.F.R. § 63.468(f), each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of 40 C.F.R. § 63.463 shall submit an annual report by February 1 of the year following the one for which the reporting is being made.

37. Ohio Screw Products did not submit the annual reports required for the period of January 1, 1999 through December 31, 1999.

38. Ohio Screw Products's failure to submit the annual report for 1999 constitutes a violation of the reporting deadline established under 40 C.F.R. § 63.468(f) and Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

Count IV - 40 C.F.R. § 63.468(h)

39. Complainant incorporates paragraphs 1 through 25 of this complaint, as if set forth in this paragraph.

40. According to 40 C.F.R. § 63.468(h), each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of 40 C.F.R. § 63.463 shall submit an exceedance report to the Administrator semiannually except when the Administrator determines on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the source or an exceedance occurs.

41. Ohio Screw Products did not submit the exceedance reports required for the periods of July 1, 1998 through December 31, 1998; and January 1, 1999 through June 30, 1999.

42. Ohio Screw Products's failure to submit the exceedance

reports for 1998 and 1999 constitutes a violation of the reporting deadline established under 40 C.F.R. § 63.468(h) and Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

Count V - 40 C.F.R. § 63.463(e)(2)(i)

43. Complainant incorporates paragraphs 1 through 25 of this complaint, as if set forth in this paragraph.

44. According to 40 C.F.R. § 63.463(e)(2)(i), if a freeboard refrigeration device is used to comply with these standards, the owner or operator shall ensure that the chilled air blanket temperature (in °F), measured at the center of the air blanket, is no greater than 30 percent of the solvent's boiling point.

45. In correspondence between Ohio Screw Products and Ohio Environmental Protection Agency, Ohio Screw Products stated the freeboard refrigeration device was at a temperature well above the limit set at 40 C.F.R. § 63.463(e)(2)(i).

46. Ohio Screw Products's failure to achieve the required temperature in the freeboard refrigeration device in the degreaser by the compliance date specified in § 63.460(d) constitutes a violation of the compliance requirements established under 40 C.F.R. § 63.463(e)(2)(i) and Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

Count VI - 40 C.F.R. § 63.466(a)

47. Complainant incorporates paragraphs 1 through 25 of this complaint, as if set forth in this paragraph.

48. According to 40 C.F.R. § 63.466(a), except as provided in paragraph (g) of this section, each owner or operator of a

batch vapor or in-line solvent cleaning machine complying with the equipment standards in 40 C.F.R. § 63.463(b)(1)(i), (b)(2)(i), (c)(1)(i), or (c)(2)(i) shall conduct monitoring and record the results on a weekly basis for the control devices, as appropriate, specified in paragraphs (a)(1) and (a)(2) of this section.

49. Ohio Screw Products did not perform the required monitoring and maintain appropriate records for the freeboard refrigeration device on a weekly basis.

50. Ohio Screw Products' failure to perform the required monitoring and maintain appropriate records constitutes a violation of the monitoring and recordkeeping requirements established under 40 C.F.R. § 63.466(a) and Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

Count VII - 40 C.F.R. § 63.466(d)(1)

51. Complainant incorporates paragraphs 1 through 25 of this complaint, as if set forth in this paragraph.

52. According to 40 C.F.R. § 63.466(d)(1), except as provided in paragraph (g) of this section, each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the equipment standards in 40 C.F.R. § 63.463(b)(1)(i), (b)(2)(i), (c)(1)(i), or (c)(2)(i) using reduced room draft shall conduct monitoring and record the results as specified in paragraph (d)(1) or (d)(2) of this section. If the reduced room draft is maintained by controlling room parameters, the owner or operator shall conduct an initial monitoring test of the windspeed and of room parameters, quarterly monitoring of

windspeed, and weekly monitoring of room parameters as specified in paragraphs (d)(1)(i) and (d)(1)(ii) of this section.

53. Ohio Screw Products did not perform the required monitoring and maintain appropriate records for the reduced room draft.

54. Ohio Screw Products' failure to perform the required monitoring and maintain appropriate records constitutes a violation of the monitoring and recordkeeping requirements established under 40 C.F.R. § 63.466(d)(1) and Section 112 of the Clean Air Act, 42 U.S.C. § 7412.

Proposed Civil Penalty

55. The Administrator must consider the factors specified in Section 113(e), 42 U.S.C. § 7413(e), of the Act when assessing an administrative penalty under Section 113(d), 42 U.S.C. § 7413(d).

56. The proposed civil penalty herein has been determined under those authorities in accordance with Section 113(e)(1) of the Act, 42 U.S.C. § 7413(e)(1), which requires the Complainant to take the following factors into consideration in determining the amount of penalty assessed under Section 113:

- (a) the size of the Respondent's business;
- (b) the economic impact of the penalty on the business;
- (c) Respondent's full compliance history and good faith efforts to comply;
- (d) the duration of the violations alleged in the Complaint as established by credible evidence

(including evidence other than the applicable test method);

- (e) payment by Respondent of penalties previously assessed for the same alleged violations;
- (f) the economic benefits of noncompliance; and
- (g) the seriousness of the alleged violations.

57. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent in the amount of **\$81,912**. This proposed penalty was calculated under Section 113(e) of the Act, with specific reference to the Clean Air Act Stationary Source Penalty Policy (Penalty Policy). The Penalty Policy provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors set forth above to particular cases. Enclosed with the complaint served on Respondent is a copy of the Penalty Policy.

58. The proposed penalty of \$81,912 reflects a presumption of Respondent's ability to pay the penalty and to continue in business based on the size of its business and the economic impact of the proposed penalty on its business.

59. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

60. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (the Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

61. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

62. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized David Mucha to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone David Mucha at (312) 886-9032. David Mucha's address is:

David Mucha (C-14J)
Associate Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Penalty Payment

63. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check

payable to "Treasurer, the United States of America", and by delivering the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to David Mucha and to:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Opportunity to Request a Hearing

64. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 65 through 70 below.

Answer

65. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one

copy with the Regional Hearing Clerk at the address specified in paragraph 61, above, and must serve copies of the written answer on the other parties.

66. If Respondent chooses to file a written answer to the complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

67. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.

68. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

69. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 72 above.

70. If Respondent does not file a written answer within 30 calendar days after receiving this complaint the Presiding

Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

71. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact David Mucha at the address or phone number specified in paragraph 62, above.

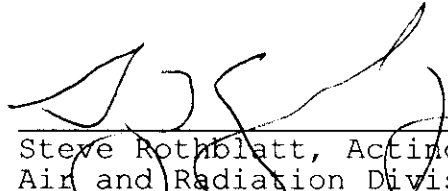
72. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

73. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the

Act and any other applicable federal, state, or local law.

5/14/02
Date


Steve Rothblatt, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CAA-05- 2002-0 00 8


CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the Administrative Complaint and CAFO, docket number **CAA-05- 2002 -0 00 8** to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, CAFO, and copies of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits" at 40 C.F.R. Part 22, and copies of the penalty policy described in the Administrative Complaint by certified mail, return receipt requested, to Ohio Screw Products and Ohio Screw Products' Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Dan Imbrogno, President
Ohio Screw Products, Inc.
818 Lowell Street
Elyria, Ohio 44036

Marsha L. Collett
Wickens Herzer Panza Cook & Batista
1144 West Erie Avenue
P.O. Box 840
Lorain, Ohio 44052

on the 30th day of May, 2002.



Loretta Shaffer
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0000 9586 7564